



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/677,141 | 10/01/2003 | Herman Victorov | 7277-000005 | 3921 |
| 27572 | 7590 | 10/06/2006 | | |
| HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303 | | | | |
| | | | EXAMINER | |
| | | | DAVIS, ROBERT B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1722 | |

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/677,141 | Applicant(s) VICTOROV ET AL. | |
| | Examiner Robert B. Davis | Art Unit 1722 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 and 62-80 is/are pending in the application.
- 4a) Of the above claim(s) 16-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-37 and 62-65 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15, 66-68 and 71-80 is/are rejected.
- 7) ☒ Claim(s) 10, 69 and 70 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5/5/4, 3/23/4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-10 and 62-73 in the reply filed on July 17, 2006 is acknowledged. The traversal is on the ground(s) that Groups IV and V are not distinct. This is found persuasive and claims 11-15 and 74-80 are being added to group I. The restriction between groups II and III is made final.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 16-33 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 17, 2006.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

Art Unit: 1722

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-9, 66-68 and 71-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkhideh (5,761,886: figures 6-13; column 2; column 3, lines 27-53; column 4, lines 12-20 and 47-59; column 7, lines 50-62; column 8, lines 41-49; column 8, line 65 to column 10, line 67) taken together with Motion Control Selection Guide (Rockwell Automation pamphlet).

Parkhideh discloses a soft gel encapsulation machine comprising: a fill mechanism (28, 54) operable to deliver a fill material; a pair of dies (20, 21), a control device (figure 13) to control the fill device, the dies and casting drums (9) to form a soft gel product. The dies (20 and 21) have different drives which are in the form of high torque, precision motors that are fed with a feedback device such that any adjustment of the relative position of the dies can be accomplished by electrical/electronic commands. The drive for the pumps (fill mechanism) are separate motors which can be feedback controlled. The drums (9) are driven separately by motors (95). The reference does not explicitly state that the motors are servo motors or that a serial communication ring links the fill mechanism and dies to the control device.

The Rockwell pamphlet discloses a controller (figure 2.1) serially attached to a plurality of servo motors by a fiber optic ring.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the apparatus of Parkhideh by using a serially attached controller with servo motors by a fiber optic ring as disclosed by the Rockwell pamphlet because such

Art Unit: 1722

was a well known manner of connecting a plurality of servo motors to allow for system wide control of an apparatus.

6. Claims 11-15 and 74-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkhideh taken together with the Rockwell pamphlet and Harris (3,674,397: figures 1-5 and column 4, lines 41-59).

Parkhideh and Rockwell disclose all claimed features as disclosed supra.

Harris discloses opposing dies (16, 17) and a fill mechanism (12) and pressure controller between dies (16, 17).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the apparatus of Parkhideh by utilizing a pressure controlling means to control the pressure between opposing dies as disclosed by Harris for the purpose of controller the pressure exerted by the dies to shape material within the die cavities on the roller dies.

Claim Objections

7. Claims 8, 66-68, 71-73 and 75-78 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims merely recite the material being worked upon and do not further define the structure of the apparatus.

Allowable Subject Matter

8. Claim 10, 69, 70 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 34-37 and 62-65 are allowed over the prior art of record.
10. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teach or suggest a capsule machine or a soft gel encapsulation machine having a control device having a virtual gear or a virtual relationship between the fill mechanism and the dies.

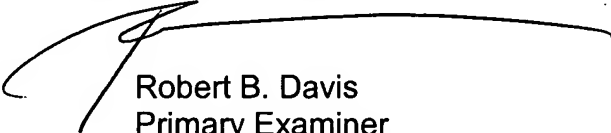
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert B. Davis
Primary Examiner
Art Unit 1722

10/2/06